

RESOLUTION NO. 2256

RESOLUTION ESTABLISHING THE RAVALLI COUNTY
OPEN LANDS BOND PROGRAM

BE IT RESOLVED by the Board of County Commissioners (the "Board") of Ravalli County, Montana (the "County"), as follows:

Section 1. Recitals.

1.01. Section 76-6-104, M.C.A. defines open-space land as any land which is provided or preserved for: park for recreational purposes; conservation of land or other natural resources; historic or scenic purposes; or assisting in the shaping of the character, direction, and timing of community development; and

1.02. A county as a public body is authorized pursuant to Section 76-6-109, M.C.A., to issue and sell general obligation bonds in the manner and within the limitations prescribed by applicable laws of Montana for the purpose of acquiring open lands consistent with the provisions of Title 76, Chapter 6, Part 1, M.C.A. (the "Act"); and

1.03. Resolution No. 1946, passed and adopted by the Board on July 25, 2006, recognized that working farms and ranches in Ravalli County are a valuable resource worth protecting, helping the valley by managing growth, preserving open lands, protecting water quality and its sources, maintaining wildlife habitat, all while promoting the rural flavor, pristine views, and lifestyles residents enjoy.

1.04. Pursuant to Resolution No. 1946, the County called an election for the purpose of voting on the question of whether the Board shall be authorized to issue and sell general obligation bonds of the County solely for the purpose of preserving open lands in the County by purchasing land, conservation easements, and other interests in land from willing landowners for the following purposes: manage growth, preserve open lands, protect water quality of streams and the Bitterroot River, maintain wildlife habitat, and protect drinking water sources, paying landowner costs and related transaction costs associated with an approved open lands project, with all expenditures based on recommendations of the "Open Lands" Board, after public comment, and approved by the Board. For the purposes of this Resolution, open lands are intended to specifically include those associated with working farms and ranches.

1.05. The voters of the County at the election held on November 7, 2006, authorized the Board to issue and sell \$10,000,000 of "Open Lands" General Obligation Bonds for the purposes set forth in Resolution No. 1946 as stated above.

1.06. Resolution No. 1946 further provided that the Board would appoint an "Open Lands" Board pursuant to Section 76-6-109(2)(d), M.C.A., as a volunteer citizen advisory committee to formulate and recommend to the Board proposed rules and policies regarding open lands projects and expenditures consistent with and implementing the current Growth Policy and subsequent amendments, and the Board would enact an "Open Lands" project policy by resolution after reviewing recommendations from the Open Lands Board.

Return: Commissioners

1.07. Pursuant to Resolution No. 2037, passed and approved on February 26, 2007, the Board established the Open Lands Board.

1.08. The Open Lands Board has, working with the County Attorney's Office and Planning Department, formulated and recommended to the Board proposed rules and policies regarding open lands projects and expenditures that are consistent with the County Growth Policy.

1.09 Pursuant to Resolution 2104, passed and approved on May 7, 2007, the Board approved the Open Lands Board's Bylaws.

1.10. After legal notice, the Board conducted a public hearing on November 5, 2007, regarding establishing the Open Lands Board Program for Ravalli County. At that hearing, the Board approved the Open Lands Board's initial Guidelines and Application Materials that will be used to administer the Open Lands Program and review Open Lands Projects.

1.11. Based on the information provided at the public hearing and subsequent recommendations of the Department, County Attorney's Office, Bond Counsel, Open Lands Board, the Board is prepared to establish by this Resolution the County's Open Lands Bond Program.

Section 2. Definitions. Defined terms used in this Resolution and any of the documents or exhibits to the Resolution shall have the meanings as set forth below.

"Advisory Staff" shall mean staff and other individuals who are likely to provide advice for the Open Lands Program to the Open Lands Board and the Board, including but not limited to Department staff, legal counsel, bond counsel, financial advisors, and other technical advisors.

"Applicant" shall mean the party who is requesting consideration of an Open Lands Project. The Applicant could include the sponsoring agency or organization, Property Owner(s), etc.

"Application" shall mean a request for funding of an Open Lands Project to be completed in the form and manner as provided in the Application Materials provided by the Department.

"Application Fee" shall mean the fees to be paid by an Applicant for an Open Lands Project to cover costs associated with reviewing and processing an Application, which fees shall be established by the Board.

"Board" shall mean the Ravalli County Board of County Commissioners.

"Bond Counsel" shall mean the nationally-recognized bond counsel firm retained by the County to render the necessary legal opinions with respect to the validity of the Bonds and their exemption from State and Federal individual income tax.

"Bonds" shall mean the County's General Obligation Open Lands Bonds authorized in the aggregate principal amount of \$10,000,000.

"Conservation Easement" shall mean an easement or restriction, running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction any or all rights to construct improvements upon the land or to substantially alter the natural character of the land, or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the easement or restriction.

"Department" shall mean the Ravalli County Planning Department.

"Eligible Transaction Costs" shall mean cost of appraisal, title research, surveys and mapping, legal fees, environmental reports, baseline studies, taxes, option fees, real estate commissions and fees, closing costs, and other approved transaction costs.

"Final Documentation Materials" shall mean the documents necessary to effectuate and close an approved Open Lands Project and shall include, but not be limited to, the form of deed, deed restriction, easement, title commitment and policies, if required, and the agreement between the County and the Sponsoring Entity with respect to the maintenance of the Conservation Easement.

"Growth Policy" shall mean the Ravalli County Growth Policy as currently amended, originally adopted on December 31, 2002, and most recently amended on August 18, 2004.

"Guidelines" and "Application Materials" shall mean those administrative materials initially approved by the Board on November 5, 2007, and any subsequent amendments or additions, including the Guide for Applicants and Sponsoring Organizations or Agencies, Applicant Pre-submission Worksheet, Fee Schedule, Funding Worksheet, Pre-application Worksheet for Staff, Scoring Worksheet, and any other materials or forms deemed necessary for the function of this Program.

"Open Lands" shall mean those lands which are necessary to manage growth, maintain open and undeveloped lands, protect water quality of streams and the Bitterroot River, maintain wildlife habitat and protect drinking water, and preserve agricultural uses.

"Open Lands Board" shall mean the Board established pursuant to Resolution No. 2037 and further described in Section 4 of this Resolution.

"Open Lands Fund" shall mean the Fund created by the Board into which the proceeds of the Bonds exclusive of any accrued interest thereon will be deposited.

"Open Lands Program" shall mean the program adopted and administered by the County pursuant to which it acquires and manages open lands and in particular, approves Open Lands Projects.

"Open Lands Project" shall mean a project, including the Application Materials and the funding request, presented to the Board to determine if it meets the criteria established in Section 3 of this Resolution.

"Project Related Costs" shall mean the necessary costs of making an approved Open Lands Project safe and useable for the stated purpose of the Project, including the removal of junk, trash, barbed wire, demolition of structures, abatement of safety hazards, initial weed treatment, and other similar costs.

"Property Owner(s)" shall mean the record owner or owners of the fee simple interest land that is proposed as an Open Lands Project.

"Sponsoring Entity" shall mean an organization or agency that is recognized as being in the business of sponsoring or accepting conservation easements or other ownership interest in land for the purpose of preserving its conservation values or a state or local government entity that has as one of its roles the acquisition and management of public lands, acceptable to the County.

Section 3. Open Lands Bond Program Goals and Objectives.

3.01. Goal of Program. The County will use the proceeds of its Bonds to preserve Open Lands in the County to achieve the following purposes, as further described in the Guidelines and Application Materials:

- a. Manage growth;
- b. Preserve Open Lands, including working farms and ranches;
- c. Protect water quality of streams and the Bitterroot River;
- d. Maintain wildlife habitat; and
- e. Protect drinking water sources.

3.02. Objective of the Program. In achieving the goal identified above, the County's primary objective is to maximize the number of acres of Open Lands while achieving the greatest conservation benefits for the County from the limited proceeds of the Bonds. The primary methods for achieving this objective are as follows:

- a. Conservation Easements. It is hereby determined that use of Conservation Easements as opposed to the outright acquisition of land or other interests in land will be the preferred method of conserving Open Lands in the County under this Program for the following reasons: the acquisition of conservation easements should be less costly than acquisition of fee interest in property; conservation easements should further the goal of enabling farmers and ranchers to continue their operations; conservation easements will not take private property off of the tax rolls and will not impose an undue burden on the County and its taxpayers for any maintenance.

- b. Other Interests in Open Land Projects. Open Land Projects using means other than Conservation Easements may be considered if the Open Lands Program goals and objectives are not best accomplished through the use of Conservation Easements.

The following factors will, therefore, be taken into consideration to achieve this objective: the overall costs of the project, the contribution of funds other than Bond proceeds to the Project; the public benefit of the Project, and the availability of Bond proceeds.

Section 4. Open Lands Board. As set forth in the Open Lands Board Bylaws, adopted by the Board via Resolution No. 2104 on May 7, 2007, the objective of the Ravalli County Open Lands Board is to work with the County Commissioners and the citizens of Ravalli County to preserve Open Lands throughout the County's rural and urban areas that protect working farms and ranches, water quality, river corridors, timberlands, important wildlife habitat, scenic views and vistas, and diverse recreational opportunities.

4.01. Composition of the Open Lands Board. The composition of and terms of office for the Open Lands Board are set forth in Resolution No. 2037 and any subsequent amendments.

4.02. Terms of Membership and ByLaws. The terms of membership and Bylaws for the Open Lands Board are set forth in Resolution No. 2104 and any subsequent amendments.

4.03. Amendment of By-Laws. The Open Lands Board may recommend amendments to its ByLaws for approval by the Board, but such Bylaws may not conflict with any provision of this Resolution.

4.04 Open Meeting Law. All meetings of the Open Lands Board shall be conducted in accordance with open meetings law as set forth in Title 2, Chapter 3, Part 2, M.C.A.

4.05. Duties of Open Lands Board. In addition to the duties established in the Bylaws the Open Lands Board shall: a) formulate and recommend to the Board proposed rules and policies regarding Open Lands projects and expenditures and subsequent amendments that are consistent with the Growth Policy and b) make recommendations to the Board as to the approval or denial of funding Applications for Open Lands Projects and any recommended terms and conditions in accordance with the provisions of this Resolution.

Section 5. Open Lands Bonds.

5.01. Issuance of Bonds. The Board will authorize the issuance of the Bonds at the time and in the amounts it deems necessary, desirable and in the best interest of the County to provide the funds necessary to fund approved Open Lands Projects.

5.02. Approval of Bond Financed Projects. The Board retains final approval of all Open Lands Projects and other costs to be financed from the proceeds of the Bonds.

5.03. Use of Bond Proceeds. Bond proceeds may be used to pay the costs of issuance of the Bond and Eligible Transaction Costs and Project Related Costs of approved Open Lands Projects.

Proceeds of the Bonds shall not be used to pay general operating expenses of the County.

5.04. Maintenance of the Open Lands Fund. The County will maintain the Open Lands Fund as a separate and distinct account of the County and will expend such funds only for authorized purposes. The County may accept grants, donations or contributions for its Open Lands Program and will deposit such funds into a separate sub-account in the Open Lands Fund.

Section 6. Open Lands Program Administration.

6.01 Roles and Responsibilities.

- a. As authorized by the Board, Department staff shall serve as primary staff for the Open Lands Program. They will have the responsibility for, among other things, coordinating the review of Open Lands Projects, holding pre-submission meetings with potential Applicants and/or Sponsoring Entities, reviewing and making recommendations regarding Open Lands Projects to the Open Lands Board and the Board, coordinating the review of Final Documentation Materials for approved Open Lands Projects, and reviewing and making recommendations regarding the Final Documentation Materials for approved Open Lands Projects. Primary staff shall be responsible for administering the Open Lands Program and making recommendations to the Open Lands Board and the Board regarding policies and procedures associated with this Program.
- b. The Open Lands Board, as an Advisory Board to the Board, shall perform duties as described in Section 4.05 of this Resolution.
- c. The Board shall be responsible for making final decisions regarding Applications for Open Lands Projects and Final Documentation Materials for approved Open Lands Projects. The Board shall be responsible for making policy decisions associated with the Open Lands Bond Program.

6.02. Open Lands Projects Application and Review Procedures. The review procedure set forth herein will be accomplished primarily through the use of the Guidelines and Application Materials. Using these materials, the steps for reviewing Open Lands Projects are as follows:

- a. Pre-submission Materials and Conference. A prospective Applicant and/or Sponsoring Entity will complete the Pre-Submission Worksheet provided by the Department. The Department will meet with the Applicant and/or Sponsoring Entity to discuss the Application, provide guidance and information about the Program and the proposed Open Lands Project, and identify additional information needed for review of the Application.

b. Open Lands Project Application Submittal and Review Procedure.

- i. Application Submittal. The Applicant and Sponsoring Entity shall submit an Application to the Department that includes the materials outlined in the Application form provided by the Department. The Department will work with the Applicant and Sponsoring Entity to ensure the Application is complete.
- ii. Review and Recommendations. The Department and Open Lands Board will evaluate the proposed Open Lands Project, including Application Materials, site visits, public comments, comments from Advisory Staff, and any other relevant information, against the review criteria as described in Section 6.03 of this Resolution. The Department will provide a recommendation to the Open Lands Board regarding the proposed Open Lands Project. The Open Lands Board and the Department will provide recommendations regarding the proposed Open Lands Project to the Board. The recommendation from the Open Lands Board will be developed in a public meeting.
- iii. Board Review and Decision. The Board will conduct a public hearing and review a proposed Open Lands Project, including the Application Materials, site visits, public comments, recommendations from Advisory Staff, the Department and the Open Lands Board, and any other relevant information, against the review criteria as described in Section 6.03 of this Resolution and make a decision to approve or deny funding of the Project.
- iv. The County, in approving and financing an Open Lands Project, makes no representations to the Property Owner(s) or the Sponsoring Entity as to the State or Federal income tax or other legal implications for the Property Owner(s) or Sponsoring Entity.

c. Final Documentation Materials Submittal and Review Procedure.

- i. Final Documentation Materials Submittal. The Applicant and Sponsoring Entity of an approved Open Lands Project shall provide the Final Documentation Materials for review in accordance with any conditions required by the Board. The Department will work with the Applicant and Sponsoring Entity to ensure that the Final Documentation Materials submittal is complete.
- ii. Final Documentation Materials Review. The Department shall submit the Final Documentation Materials to the County Attorney's Office and any other necessary Advisory Staff for their review and recommendations.
- iii. Board Review and Decision. The Board shall review the Final Documentation Materials in a public meeting and approve or deny the Final Documentation Materials. When the Board has approved the Final Documentation Materials, arrangements will be made by appropriate County staff to transfer funds.

6.03. Open Lands Projects Review Criteria.

- a. A proposed Open Lands Project, including the Application Materials, and all information, recommendations, and public comments generated during the review procedure shall be evaluated in its entirety against the goals and objectives described in Section 3 of this Resolution, as further described in the Guidelines and Application Materials.
- b. Final Documentation Materials shall be evaluated based on their completeness to determine that they have met all requirements of the Board's approval of the Open Lands Project prior to transfer of funds.

Section 7. Role of Sponsoring Entity.

7.01. Accept and Monitor Easement. The Sponsoring Entity, by signing an Application, is agreeing to accept the Conservation Easement in its name to monitor the easement on behalf of the County. If the Project is approved by the County, the Sponsoring Entity must enter into an agreement with the County setting forth the parties' respective responsibilities with respect to the Open Lands Project with terms acceptable to both parties.

7.02. Responsibility for Finalization of the Easement. Once a Conservation Easement Open Lands Project is approved for funding, the Sponsoring Entity will be responsible for working with the County to make sure that the Conservation Easement is closed and recorded to the County's satisfaction.

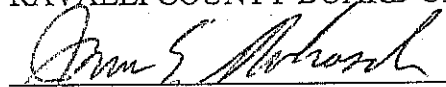
7.03. Documentation. The Sponsoring Entity shall provide the County with forms for the Conservation Easements and other documents required to effectuate the transaction. The County reserves the right to retain independent legal or financial consultants review such documents and the cost of the review of such documents will be an Eligible Transaction Cost.

Section 8. Availability of Bond Proceeds. The County will endeavor to make Bond proceeds available within a reasonable time of the approval of an Open Lands Project. The approval of a Project does not guarantee that funds will be available at the time the Property Owner(s) request them to be available.

Section 9. Effective Date. This Resolution shall become effective on the date of its approval.

PASSED AND APPROVED THIS 5th DAY OF December, 2007.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS:


James Rokosch, Chairman

Alan Thompson
Alan Thompson, Member

Greg Chilcott
Greg Chilcott, Member

Kathleen Driscoll
Kathleen Driscoll, Member

Carlotta Grandstaff
Carlotta Grandstaff, Member

Regina Plattenberg/Teresa L. Miller,
Attest: Clerk & Recorder *deputy*

